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PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/340,165	
	Filing Date	June 28, 1999	
	First Named Inventor	Novak	
	Group Art Unit	1743	
	Examiner Name	Alexander	
Total Number of Pages in This Submission	7	Attorney Docket Number	

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	TC 1700 MAIL ROOM AUG 23 2001 RECEIVED
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	U.S. Army Materiel Command; Office of Command Counsel; 5001 Eisenhower Avenue; Alex, VA 22333-0001
Signature	William Randolph (William Randolph Reg 28,986)
Date	August 22, 2001

CERTIFICATE OF MAILING		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: <input type="text"/>		
Typed or printed name		
Signature		Date

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: NOVAK, Thaddeus J.

Serial Number: 09/340,165

Filing Date: June 28, 1999

Title: Microspot Test Kit And Method For Chemical Testing



Examiner: ALEXANDER, Lyle

Group Art Unit: 1743

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION, MPEP 711.03(c)

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

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This petition to withdraw the holding this application to be abandoned is being filed because there is no indication that the subject Office Action was ever received.

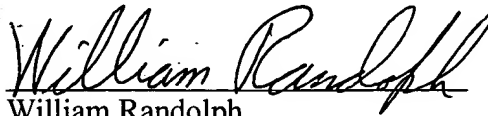
I am employed as a patent attorney with the Intellectual Property Law Branch in the Business Operations Law Division of the Office of Command Counsel at the Headquarters, U.S. Army Materiel Command (AMC), 5001 Eisenhower Avenue, Alexandria, Virginia. A Subordinate Command of AMC is the U.S. Army Soldier and Biological Chemical Command (SBCCOM). During 1999 and 2000, I assisted SBCCOM with some of their patent prosecution matters. One product of this assistance was the preparation and filing of the subject patent application. All of the applications prepared for SBCCOM indicate that correspondence should be sent to the Office of the Command Counsel for AMC as noted in the attached copy of the transmittal form PTO/SB/05 for the subject application. Correspondence for other SBCCOM patent applications filed during this time period have been received, including correspondence for another patent application involving the present inventor and the same examiner.

There is no indication that either AMC or SBCCOM received an Office Action for the subject application. At AMC, the application files for the SBCCOM patent applications are kept in a separate drawer of a file cabinet. The subject Office Action was not found during a search of all of the patent application files in the designated drawer of the file cabinet. An attached declaration by Deborah A. Arnold, a custodian of the patent application files, establishes that her procedure for entering correspondence into the patent application files includes noting the correspondence on the file wrapper and giving the file to the attorney of record. An examination of the file wrapper for the subject application failed to reveal the subject Office Action and showed that the only correspondence noted on the file wrapper is the filing date (copy attached). The entering of the Notice Of Abandonment on the file wrapper has been withheld pending the decision on this petition.

For the above reasons it requested the petition be granted and the abandonment of this application be withdrawn.

Please charge any fee or costs associated with this petition to the U.S. Army Materiel Command, Patent Office deposit account number 19-2201. Any deficiency or overpayment should be charged or credited to this numbered deposit account.

August 21, 2001


William Randolph
Patent Attorney,
Reg. No. 28,986
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5001 Eisenhower Avenue
Alexandria, Va. 22333-0001

Telephone (703) 617-2555

Novak 09/340,165



Novak 09/340,165

CONTENTS

1. Application June 28, 1999 - filing receipt papers.

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PTO/SB/05 (4/98)

Approved for use through 09/30/2000. OMB 0651-0032

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. § 1.53(b))

Attorney Docket No.

First Inventor or Application Identifier | Novak

Title | Microspot Test Kit And Method For Chemical

Express Mail Label No.

Testing

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☒ Specification [Total Pages 61]
(preferred arrangement set forth below)
 - Descriptive title of the Invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to Microfiche Appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
3. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 6]
4. Oath or Declaration [Total Pages 2]
 - a. ☒ Newly executed (original or copy)
 - b. ☐ Copy from a prior application (37 C.F.R. § 1.63(d))
(for continuation/divisional with Box 16 completed)
 - i. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. §§ 1.63(d)(2) and 1.33(b).

NOTE FOR ITEMS 1 & 13: IN ORDER TO BE ENTITLED TO PAY SMALL ENTITY FEES, A SMALL ENTITY STATEMENT IS REQUIRED (37 C.F.R. § 1.27), EXCEPT IF ONE FILED IN A PRIOR APPLICATION IS RELIED UPON (37 C.F.R. § 1.28).

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

5. ☐ Microfiche Computer Program (Appendix)
6. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
 - a. ☐ Computer Readable Copy
 - b. ☐ Paper Copy (identical to computer copy)
 - c. ☐ Statement verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

7. ☐ Assignment Papers (cover sheet & document(s))
8. ☐ 37 C.F.R. § 3.73(b) Statement of Power of Attorney
(when there is an assignee)
9. ☐ English Translation Document (if applicable)
10. ☐ Information Disclosure Statement (IDS)/PTO-1449 [Copies of IDS Citations]
11. ☐ Preliminary Amendment
12. ☐ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
13. ☐ Small Entity Statement(s) [Statement filed in prior application, Status still proper and desired]
(PTO/SB/09-12)
14. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
15. ☐ Other:

16. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment:

☐ Continuation ☐ Divisional ☒ Continuation-in-part (CIP)

of prior application No: 08,763,181

Prior application information: Examiner

Group / Art Unit:

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 4b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

17. CORRESPONDENCE ADDRESS

☐ Customer Number or Bar Code Label

(Insert Customer No. or Attach bar code label here)

or ☒ Correspondence address below

Name	U.S. Army Materiel Command Office of the Command Counsel				
Address	Attn: AMCCC-B-IP 5001 Eisenhower Avenue				
City	Alexandria	State	Virginia	Zip Code	22333-0001
Country	U.S.A.	Telephone	(703) 617-2555	Fax	(703) 617-6650

Name (Print/Type) William Randolph

Registration No. (Attorney/Agent)

Reg. #28,986

Signature

William Randolph

Date

June 28, 1999

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: NOVAK, Thaddeus J.

Serial Number: 09/340,165

Filing Date: June 28, 1999

Title: Microspot Test Kit And Method For Chemical Testing



Examiner: ALEXANDER, Lyle

Group Art Unit: 1743

DECLARATION

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Deborah A. Arnold , declares:

That, I am employed by the U.S. Government at the Headquarters, U.S. Army Materiel Command (AMC Headquarters), 5001 Eisenhower Avenue, Alexandria, Virginia. Subordinate Commands of AMC include the U.S. Army Aviation and Missile Command; the U.S. Army Communications Command; the U.S. Army Operations Support Command; the U.S. Army Research Laboratory; the U.S. Army Simulation, Training and Instrumentation Command, the U.S. Army Soldier and Biological Chemical Command; and the U.S. Army Tank-Automotive and Armaments Command. I serve as a legal assistant for the Intellectual Property Law Branch in the Business Operations Law Division of the Office of Command Counsel.

That my duties include assisting the three patent attorneys staffed at AMC Headquarters with legal matters involving administrative claims and suits of patent and copyright infringement, cooperative research and technical data agreements, patent licenses and royalty agreements, trademarks, legal research, and some patent prosecution. I also maintain records relating to the AMC deposit account at the U.S. Patent and Trademark Office that is used by

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AMC Headquarters and the above-mentioned subordinate commands. For the patent applications that are prosecuted by the AMC Headquarters patent attorneys, I maintain the correspondence files.

That during 1999 and 2000, less than ten patent applications were prepared by one attorney, Mr. Randolph, and filed for the U.S. Army Soldier and Biological Chemical Command. These cases are kept in a separate file drawer in our office. When correspondence for these cases is received from the U.S. Patent and Trademark Office, the procedure used to maintain these cases consists of retrieving the application file from the file drawer, noting the correspondence on the file wrapper, attaching a memo to the file, and personally giving the file to Mr. Randolph. When Mr. Randolph completed the response, the file was returned to me, the memo was removed and I returned the file to the file drawer.

That I have examined the file for the above-mentioned patent application and there are no markings to indicate that an examiner's Office Action was received from the U.S. Patent and Trademark Office. Further, there is no indication that a memo was ever prepared for this case.

That the undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

8/20/01
Date

Deborah A. Arnold
Deborah A. Arnold